

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY



CHAMBERS OF
GARRETT E. BROWN, JR.
CHIEF JUDGE

CLARKSON S. FISHER U.S. COURTHOUSE
402 EAST STATE STREET, ROOM 4050
TRENTON, NJ 08608
(609)989-2009

ORIGINAL TO CLERK

July 26, 2007

RECEIVED

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AT 8:30 M
WILLIAM T. WALSH
CLERK

All Counsel

Re: **United States of America v. Penny Lane Partners, L.P.,**
Civ. No. 06-1894 (GEB)

Dear Counsel:

This matter comes before the Court upon the United States Small Business Administration's ("SBA") motion for an order to partially lift this Court's stay of this case. On May 16, 2006, the Court appointed the SBA as Receiver for Penny Lane Partners, L.P. ("Penny Lane"), and ordered that this case be stayed. On May 22, 2007, the Receiver filed the present motion seeking to lift the stay for the limited purpose of commencing litigation to recover certain payments allegedly owed to Penny Lane. On June 5, 2007, counsel for Penny Lane Associates, L.P. ("Penny Lane Associates") and Gerald Goldberg requested an extension of time for filing opposition papers. The Court granted that request on June 15, 2007, and ordered that opposition briefs be filed by July 2, 2007. The filing deadline has since passed, and no oppositions briefs have been filed. The Court will therefore consider the Receiver's present motion as unopposed.

The Receiver claims that "there remains to be paid to Penny Lane a portion of the capital commitment that each private limited partner of Penny Lane ('Private Limited Partner') has agreed to pay to Penny Lane." (Van Der Weele Aff. ¶ 5.) According to the Receiver, it has

“made demand pursuant to the Limited Partnership Agreement for payment of the unfunded capital commitment from each Private Limited Partner who has not paid all of his or her unfunded capital commitment to Penny Lane,” and that “Penny Lane has received only some but not all of [the] unfunded capital commitment that is due and owing to Penny Lane.” (*Id.* ¶¶ 8-9.) The Receiver seeks an order lifting the stay “for the limited purpose of permitting the Receiver to commence litigation to pursue the claims of the Receiver against the Private Limited Partners who owe unfunded capital commitment to Penny Lane and for the stay to remain in effect for all other matters, claims and assets.” (*Id.* ¶ 10.)

The Receiver has offered a sufficient basis for lifting the stay in order to recover payments that the Private Limited Partners allegedly owe to Penny Lane, and no briefs have been filed in opposition to the Receiver’s motion. The Court will therefore grant the motion.

Very truly yours,



GARRETT E. BROWN, JR.
Chief Judge

cc: All Parties